

### REMARKS

Claims 1-16 are currently pending.

Applicant initially thanks the Examiner for the courtesy extended in a telephone interview on September 1, 2005. The substance of the interview is reflected in the remarks below.

The Examiner rejected claim 9 under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. Specifically, claim 9 recites the limitation “the housing”, which has insufficient antecedent basis. Accordingly, claim 9 has been amended by replacing “housing” with “grip”, which has proper antecedent basis in claim 1. Applicant respectfully requests the Examiner to remove the rejection of claim 9.

The Examiner rejected claims 1 and 9 under 35 U.S.C. §102(b) as being anticipated by Fliess (U.S. Patent No. 744,739).

Claim 1 defines a heated handgrip assembly that is adapted to be secured to a vehicle handlebar. The heated handgrip includes a grip having a first end adapted to receive the handlebar and a second end opposite the first end. A grip sleeve extends between the first and second ends. A heating element is operable to provide a heat output. The grip sleeve defines a first outer diameter. A dial extends from the second end to control the heat output of the heating element. The dial has a second outer diameter that is smaller than the first outer diameter.

Fliess does not teach or suggest a heated handgrip assembly that includes, among other things, a dial that extends from the second end of the handgrip to control the heat output of the heating element. Rather, Fliess discloses an electrically heated handle that is applied to a stem

A<sup>1</sup> having a screw-threaded axial recess, into which fits the screw B<sup>1</sup> of a cap B. As discussed in the interview, the cap B is not a dial, is not designed to rotate once installed, and is not intended to be used to control the heat output of the heating element, or any other controllable function. The cap B simply covers the end of the stem A<sup>1</sup>.

During the interview, the Examiner agreed that cap B of Fliess did not control the heat output of the heating element, suggested filing this response, and stated that he would consider removing the finality of the present Office Action.

In light of the foregoing, Fliess does not teach or suggest each and every limitation of claim 1. As such, claim 1 is allowable. In addition, claim 9 depends from claim 1 and is allowable for these and other reasons.

The Examiner rejected claims 2-7, 10-14, and 16 under 35 U.S.C. §103(a) as being unpatentable over Fliess in view of Yang (U.S. Patent No. 4,181,190).

As discussed with regard to claim 1, Fliess does not teach or suggest a heated handgrip that includes, among other things, a dial that extends from the second end to control the heat output of the heating element. Yang does not cure the deficiencies of Fliess. Yang discloses a rotatable handgrip 14 that includes a stationary reference plug 148, 149 on the end portion. The handgrip 14 is rotated to extend or retract a flexible shaft 16, which moves a control rod 20, which in turn manipulates the linkages within the mechanism box 10. The linkages within the mechanism box 10 can control a throttle control, horn switch, controllable legs, wheel brake controls, aft wheel lock, wheel brake locking device, and an engine ignition switch. *See col. 4, lines 40-45.* However, the handgrip 14 does not control the heat output of a heating element. Even if the device of Yang did control a handgrip heater, a contention Applicant disagrees with, the plug or dial that extends from the end of the handgrip remains stationary

and thus controls nothing. Thus, neither of the references, alone or in combination teach or suggest the use of a dial that extends from the second end of the handgrip to control the heat output of the heating element.

In light of the foregoing, neither Fliess nor Yang, alone or in combination, teach or suggest each and every limitation of claim 1. As such, claim 1 is allowable. In addition, claims 2-7 depend from claim 1 and are allowable for these and other reasons.

Claim 10 defines a heated handgrip assembly that is adapted to be secured to a vehicle handlebar. The heated handgrip includes a grip housing that has a first end adapted to receive the handlebar and a second end opposite the first end. A grip sleeve extends between the first and second ends and a heating element is operable to provide a heat output. A dial extends from the second end to control the heat output of the heating element. The dial includes a rib.

As discussed with regard to claim 1, neither Fliess nor Yang, alone or in combination, teach or suggest a heated handgrip that includes, among other things, a dial that extends from the second end to control the heat output of the heating element. Additionally, neither Fliess nor Yang, alone or in combination, teach or suggest a dial that includes a rib. Rather, Fliess discloses an electrically heated handle that is applied to a stem A<sup>1</sup> having a screw-threaded axial recess, into which fits the screw B<sup>1</sup> of a cap B. The cap B is not a dial, is not designed to rotate once installed, and is not intended to be used to control the heat output of the heating element, or any other controllable function. The cap B simply covers the end of the stem A<sup>1</sup>, and does not include a rib.

Yang discloses a handgrip 14 that can be used to control several functions of a motorcycle. However, controlling the output of a heating element is not one of the described functions of the handgrip 14. Furthermore, the handgrip 14 does not include a dial that

extends from the second end to control anything, much less a heating element. Yang does include a plug that extends from the end of the handgrip 14. However, the plug performs no control function. Rather, the handgrip 14 is rotated to perform the control function, while the plug remains stationary to provide a rotational reference for the handgrip 14. The plug does not include a rib. Rather, the plug includes a series of characters 150 marked on its periphery 149.

In light of the foregoing, neither Fliess nor Yang, alone or in combination, teach or suggest each and every limitation of claim 10. As such, claim 10 is allowable. In addition, claims 11-14 and 16 depend from claim 10 and are allowable for these and other reasons.

The Examiner rejected claims 8 and 15 under 35 U.S.C. §103(a) as being unpatentable over Fliess in view of Yang and further in view of MacKay (U.S. Patent No. 5,931,750).

Claim 8 depends from claim 1, and claim 15 depends from claim 10. As discussed with regard to claims 1 and 10, Fliess and Yang, alone or in combination, do not teach or suggest each and every limitation of claim 1 or claim 10.

MacKay does not cure the deficiencies of Fliess and Yang. MacKay discloses a baseball bat with an end cap. As an initial matter, MacKay is non-analogous art in that one looking to solve a problem associated with a heated handgrip for a motorcycle would not look to the baseball bat art.

Even if the baseball bat art was analogous, MacKay does not teach or suggest a concave end on the handle portion of the bat. Rather, MacKay teaches a concave end on the end of the bat opposite the handle. Furthermore, if one did apply the teachings of MacKay to the teachings of Fliess and Yang one would not arrive at the invention recited in claims 1 or

10. MacKay teaches nothing regarding the positioning of a dial at one end of a handgrip to control the heat output of a heating element.

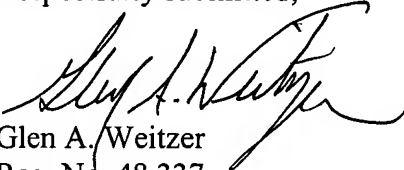
In light of the foregoing, Fliess, Yang, and MacKay, alone or in combination, do not teach or suggest each and every limitation of claims 1 and 10. As such, claims 1 and 10 are allowable. In addition, claims 8 and 15 depend from claims 1 and 10 respectively, and are allowable for these and other reasons.

### CONCLUSION

In light of the foregoing, Applicant respectfully submits that claims 1-16 are allowable.

The undersigned is available for telephone consultation during normal business hours.

Respectfully submitted,

  
Glen A. Weitzer  
Reg. No. 48,337

Docket No.: 043210-1441-01

Michael Best & Friedrich LLP  
100 East Wisconsin Avenue  
Milwaukee, Wisconsin 53202-4108  
(262) 956-6515

N:\Client\043210\1441\F0189078.1